

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA,
ex rel. JAMES DOGHRAMJI,
SHERRE COOK, and RACHEL
BRYANT,

Plaintiffs,

v.

COMMUNITY HEALTH SYSTEMS,
INC., *et al.*,

Defendants.

No. 3:11-cv-0442

**REPLY MEMORANDUM IN SUPPORT OF
EXPEDITED MOTION OF DEFENDANTS TO STAY FILING
OF OPPOSITION TO RELATORS' FEE PETITION
PENDING CONSOLIDATION OF OTHER QUI TAM CASES**

In Relators' Memorandum in Opposition ("Opp") [Dkt. 112], Relators contend that "Defendants now seek to delay the adjudication of Relators' fee petition indefinitely" (p. 1) and that there is "substantial uncertainty surrounding their plans to transfer and consolidate a fluctuating number of cases to this Court." (p.3) To dispel any confusion, the following is the current status of Defendants' efforts to transfer and consolidate the other related qui tam actions where relators seek to recover attorneys' fees from Defendants:

- *United States et al. ex rel. Cook-Reska v. Cmty. Health Sys., Inc., et al.*, No. 4:09-cv-01565 (S.D. Tex.) ("*Cook-Reska*") – Motion to Transfer has been fully briefed. See Dkt. 76, 95, 97, 105.
- *United States et al. ex rel. Carnithan v. Cmty. Health Sys., Inc., et al.*, No. 3:11-cv-00312 (S.D. Ill.) ("*Carnithan*") – Motion to Transfer has been fully briefed. See Dkt. 51, 55, 57.

- *United States ex rel. Bryant v. Cmty. Health Sys., Inc., et al.*, 4:10-cv-02695 (S.D. Tex.) (“*Bryant*”) – Motion to Transfer has been fully briefed. See Dkt. 42, 44.
- *United States ex rel. Plantz v. Health Mgmt. Assocs., Inc., et al.*, No. 1:10-cv-00959 (N.D. Ill.) -- Defendants have reached a settlement that resolves Plantz’s attorneys’ fees request.
- *United States et al. ex rel. Mason v. Cmty. Health Sys., Inc.*, No. 3:12-cv-00817 (W.D.N.C.) -- Defendants have reached a settlement that resolves Mason’s attorneys’ fees request.
- *United States ex rel. Reuille v. Cmty. Health Sys. Prof’l Servs. Corp., et al.*, No. 1:09-cv-00007 (N.D. Ind.) -- No attorneys’ fee petition has been filed; should Reuille file a fee petition, Defendants intend to file a motion to transfer and consolidate.

Thus, consolidation of the other qui tam cases would avoid the inefficiency of multiple courts performing the identical first-to-file analysis to determine which relator is entitled to attorneys’ fees, as well as avoid the potential for inconsistent judgments. Defendants’ instant motion to stay further briefing is to facilitate consolidation in a single court for a determination of the first-to-file question. To the extent that the possibility of an extended delay is a concern, the Court of course can require as part of the stay that the parties file periodic status reports on the progress of the motions for transfer and consolidation pending in other jurisdictions.¹

¹ Relators’ newfound concern about delay is curious. Their complaint was under seal for more than three years while the Government investigated and decided whether to intervene in the various qui tam lawsuits. We are not aware of Relators ever objecting to extending the sealing period or otherwise complaining about that multi-year delay.

Dated: October 21, 2014

Respectfully submitted,

/s/ William M. Outhier

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on the following via the Court's ECF filing system:

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on this the 21st day of October, 2014.

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